Waste Reduction and Prevention

Beverage Container and Packaging Regulation Discussion Paper and Draft Regulation

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Waste Reduction and Prevention Branch
Planning and Innovation Division
Manitoba Environment

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Manitoba
Environment

Manitoba's Draft Beverage Container and Packaging Regulation

The Manitoba Government intends to require distributors of beverages in Manitoba to take responsibility for their containers.

The Beverage Container and Packaging Regulation is the first regulation to be developed under the Waste Reduction and Prevention (WRAP) Act, which was proclaimed in August 1990. Its goal is to **ensure that container recovery meets or exceeds levels achieved in other provinces.**

The regulation is based on the following principles:

- Permit industry to pursue product stewardship through their own strategies, as long as the target recovery rates are met.
- Ensure that the costs of waste management are reflected in the prices of the products sold.
- Ensure that all companies competing in the beverage market place meet the same standards.
- Establish a monitoring program to ensure that published recovery rates are based on sound data.
- Impose financial assessments if targets are not achieved.

Background

The Manitoba Government is committed to having a 50% reduction in the volume of waste generated in the province by the year 2000. It is equally committed to having this accomplished in the most sustainable and economically efficient way possible.

During the last decade, the amount of beverage containers in Manitoba's waste stream has increased. In addition, concerns have been raised about the existing recovery programs. In 1991, after extensive consultation, the minister of environment initiated a process to ensure that Action Plans were put into place for four groups of products: beverage containers, newspaper, waste oil and used tires. The steps taken to improve beverage container recovery to date include:

- In January, 1991, the Honourable Glen Cummings, Minister of Environment, appointed a WRAP committee on beverage containers and asked them to identify methods of achieving high return rates for beverage containers in Manitoba.
- The Committee issued a report in April, 1991 and the public's response was sought by Manitoba Environment. Copies of the report are available from the address at the end of this document.
- Following consultations with the committee and the public, the minister recommended that the present system proceed, provided specific recovery targets were met. Drafting of a regulation under The WRAP Act was initiated to establish the recovery targets and to ensure that the effectiveness of the current system would be adequately measured.
- The minister stated that lack of significant progress towards achieving container recovery rates equivalent to those in other provinces during 1992, would result in more restrictive government measures being considered.

Intent of the Draft Beverage Container and Packaging Regulation

The Regulation is designed to ensure accountability of beverage distributors[1] for waste reduction programs. Once in force, beverage container distributors will be required to submit monthly sales reports to the government, develop and implement a waste reduction plan and meet recovery targets for beverage containers. The Regulation will be subject to continued review. It is anticipated that the Regulation will be amended in 1993. This document provides an overview of the draft Regulation. For clarification of points of law, please refer to the draft Regulation or The WRAP Act.

The Regulation allows industry to determine the most efficient way of meeting the recovery targets for beverage containers. If industry's programs fail to demonstrate the ability to meet the designated recovery targets for aluminum, P.E.T.[2] or glass containers, industry may be required to pursue product stewardship with more restrictive government involvement.

The Regulation will be subject to continued consultation with stakeholders and the public during 1992. Waste reduction targets for other beverage container materials (i.e. plastics, steel cans, aseptic or paper packaging) will be determined through this consultation process. The overall effectiveness of the industry run program will be evaluated during 1992 to determine the likelihood of attaining the recovery targets for the designated materials.

What does the Regulation do?

The Regulation:

- Makes distributors of beverage containers responsible for developing programs to reduce waste, including:
  - Licensing the distribution of beverages in Manitoba.
  - Establishing target recovery rates for certain containers.
  - Establishing a program to monitor the recovery of containers.
  - Establishing penalties for not meeting these targets.
- Requires store owners to either install recycling bins or inform customers of the closest recycling depot.
- Places new requirements on "container processors".

What are the different container classes?

Class A containers are sold under a deposit program and are composed of refillable glass bottles and non-refillables such as beer cans.

Class B containers are sold without a deposit program and are composed of glass, aluminum or P.E.T.

Class C containers are all other sealed, "ready to serve" beverage containers except for dairy or infant formula products.

[1] For brevity this paper refers to "distributors" rather than the legal definitions in the draft regulation for both "distributor" and "manufacturer". In addition, the paper uses the terms "beverage containers" or "container", rather than the legal wording which is "beverages in containers".

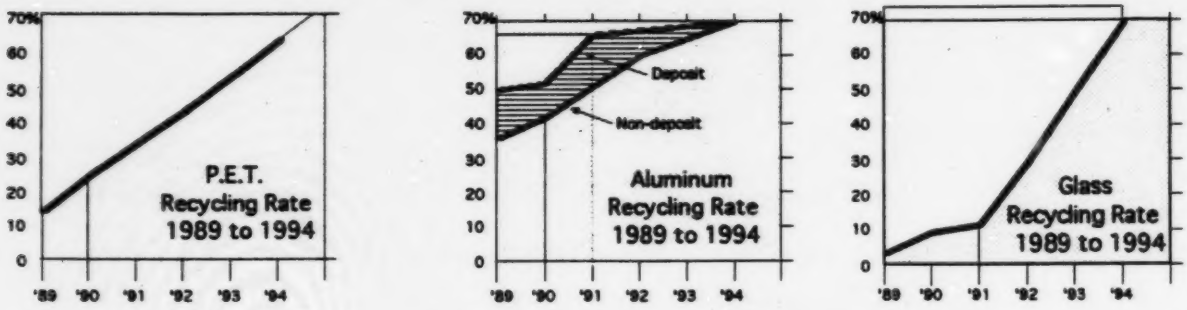
[2] P.E.T. is the usual abbreviation of Polyethylene Teraphthalate, a plastic commonly used for packaging soft drinks and other beverages.

What do the targets mean?

Figure 1 illustrates the impacts of the Regulation if the container recovery targets are met. More information on the targets can be found in the Guide for Distributors.

The targets are based on the suggestions of the WRAP Committee on Beverage Containers. Alberta's recovery rates, considered the most reliable available, were the basis for their suggestions. The targets in the draft Regulation, while below the rate of recovery currently found in Alberta, will allow three years for industry's programs to reach maturity in Manitoba.

Figure 1:
Current and Projected recovery rate for Class B container



Shaded areas represent current and projected recoveries as a percentage of containers sold. Vertical line in shaded area indicates year in which most recent data was available.

Who is affected?

Guides for distributors, retailers and container processors are included in this document to provide specific information on what each of these sectors must do to comply with the Regulation. Additional copies are available from the WRAP Branch.

What does it mean to me as a consumer?

The Regulation is intended to provide consumers with readily accessible opportunities to reduce waste. The WRAP Committee on Beverage Containers recommended building on existing recovery systems because this would be less costly to consumers than a deposit program. Manitoba Soft Drink Recycling has pledged to enhance convenience, with more locations open more frequently, and to provide guaranteed floor prices for materials and increased educational activities throughout Manitoba.

The Regulation would apply to all brands of beverage containers sold in Manitoba except milk and infant formula. This will end the situation where only certain brands of glass bottles are acceptable for recycling. Distributors may choose to offer different programs than currently exist, such as implementing their own deposit programs or other approaches. Plans for reducing waste by distributors will be made available to the public.

Manitoba Environment encourages all consumers to consider how they can reduce waste. Buy refillable bottles where available and recycle your non-refillable containers.

What is expected of retailers?

Retailers selling beverage containers without deposits, are expected to become more involved in Manitoba's efforts to keep containers out of the waste stream. Retailers of aluminum, non-refillable glass, and P.E.T. bottles will have to either establish a repository for empty containers or advertise the availability of the closest recycling depot.

What is expected of beverage distributors?

Distributors who import beverages in containers or who place beverages in containers for the purpose of sale in Manitoba will have to comply with a number of new requirements. It is proposed that they will have to:

1) Notify the government of the containers being used;
2) Obtain a license to sell beverages in containers in the province;
3) Develop and implement a Waste Reduction Plan for those containers and consider measures to reduce packaging waste; and
4) Submit monthly sales reports and depending on the type of containers distributed, pay an assessment to cover the cost of monitoring the program.

Distributors of Class A and B containers will be held accountable for achieving recovery targets during 1992. Failure to meet these targets will result in additional financial charges and may result in more restrictive requirements for all beverage containers under the Waste Reduction and Prevention Act.

What is expected of container processors?

Large container processors in Manitoba may be required to keep records and report on their activities. Please see the Guide for Container Processors at the end of this document for more information.

Questions and Answers

Why don't I get a refund for my container, like I do for beer bottles?

Manitoba's soft drink companies believe they can achieve recovery rates similar to deposit programs, without the expense of operating one. The soft drink industry is committed to improving and expanding the Manitoba Soft Drink Recycling program. Companies are free to establish independent systems, including deposit programs, if they feel there is a more effective way of achieving the waste reduction targets set out in the Regulation. The Minister of Environment will assess the performance of industry's programs in 1992 to determine if further action is necessary.

What about non-recyclable containers?

Certain containers are not, and may never be recyclable. An example may be decorative or ceramic liquor containers or certain colours of glass. In the interest of maintaining a level playing field, it is the Department's intention to ensure that all distributors contribute to Manitoba's waste reduction effort, even if some containers won't achieve waste reduction targets.

What about refillable containers?

The use of refillable containers is encouraged under the Regulation. They are exempt from assessment fees and additional assessments. In addition, for the time being, companies who use refillable bottles with a deposit program will be permitted to keep unrefunded deposits. Trends and developments in this area will be closely monitored and the results communicated to the public.

Will future WRAP Regulations be similar to this one?

Four priority materials-newspapers, oil, tires and beverage containers-have been designated for WRAP initiatives. How beverage containers are distributed, the familiarity of the industry with product stewardship, and the willingness of the industry to take responsibility for meeting targets, is much different than is the case for the other priority materials. The Regulation is also an experiment in allowing great latitude for industry to decide on the recovery approach in meeting targets. This may not be practical with other materials.

What are the penalties for not complying with the Regulation?

The WRAP Act provides for severe legal penalties for violations of the Act or its Regulations. On conviction, maximum penalties could be as high as one year in jail and a $25,000 fine for individuals and a maximum $250,000 fine for corporations. In addition, a judge may impose additional fines which consider any estimated monetary benefit which resulted from the offence and the costs of rectifying environmental damage. Officers, directors or agents of corporations may be found to be parties to an offence under The Act.

Guides to the Regulation for distributors, retailers and container processors follow.

Manitoba's Draft Beverage Container and Packaging Regulation
Guide for Distributors

Requirements for Distributors

The Regulation requires distributors or manufacturers of "ready to serve" drinks in sealed containers sold in Manitoba, to obtain a license from Manitoba Environment. Dairy and infant formula products are specifically excluded. The Regulation applies to all other carbonated or non-carbonated drinks, including juice, water, liquor, beer and soft drinks. There are no size restrictions proposed in the Regulation, as long as the containers are sealed at the time of manufacture.

Distributor and *Manufacturer* are defined so that licenses will be applied for at as high a point in the distribution chain as possible. Manitoba Environment will avoid licensing a number of retailers where a single distributor would suffice. Distributors will be issued license numbers and a data base will be developed. This information will be used to aid retailers in identifying licensed distributors and in enforcement efforts by the department.

Recovery Targets:

The recovery targets are based on the recommendations of the WRAP Committee on Beverage Containers. Alberta's recovery rates, considered the most reliable available, were the basis for the committee's recommendations. The targets in the draft Regulation will allow three years for industry's programs to reach maturity in Manitoba.

The Regulation establishes three classes and several subclasses of Beverage Containers. Table 1 provides the targets each subclass of container is expected to achieve. For each subclass the target is defined as the percentage of the total number of containers sold in Manitoba which should be recovered. The return rate for each subclass will be determined from the distributors container sales information and from recovery information provided by container processors.

Container Classes

Class A containers: are containers sold under a deposit program. Class A includes two subclasses; refillables such as beer bottles or 750 ml glass soft drink bottles, and non-refillables such as domestic beer cans. Table 1 shows the minimum recovery targets.

Class B containers: are containers which are sold without deposits and are composed of glass, aluminum or P.E.T. Each of these subclasses will be expected to achieve the minimum recovery targets set out in Table 1.

Class C containers: are all other sealed beverage containers. Dairy and infant formula products are exempt. Once the Regulation is in force, Manitoba Environment and the distributors of Class C containers will determine targets and waste reduction schedules for these containers. The definitions of Class A and B may be changed as necessary to move Class C containers into one of these classes.

Table 1
MINIMUM TARGETS FOR RECOVERY OF CONTAINER CLASSES

Class of Container	Subclass or Container	Year 1	Year 2	Year 3
Class A	*(Containers with deposits)*			
	Refillable	95%	95%	95%
	Non-refillable	60%	65%	70%
Class B	*(Targeted non-deposit containers)*			
	Non-refillable Glass	30%	50%	70%
	Polyethylene Teraphthalate (P.E.T.)	45%	55%	65%
	Alumimum	60%	65%	70%
	All other containers	0%	Targets to be to be negotiated	

LICENSING PROCEDURE

There are four major requirements a distributor must meet to obtain and maintain a license under the Regulation.

1) Submit a "Notice of Intent to Sell Container Type"

Manitoba Environment will be providing forms to describe each container the person proposes to distribute. This information will be used in the monitoring program and for identifying non-registered containers and distributors once enforcement of the Regulation begins.

The form will request information on the size, composition, colour, weight, and presence of any markings which would assist in identifying the distributor.

2) Apply for a license to distribute beverage containers

Applications for a license must be on the form provided by the department and be accompanied by a $100 license fee. The applicant must attach a Waste Reduction and Prevention Plan which is discussed in point three. Licenses issued in the first year of the Regulation will allow distributors an additional three months to submit the Waste Reduction and Prevention Plans. Manitoba Environment is proposing that licenses will be granted for one year and expire on March 31 of the following year.

3) Waste Reduction and Prevention Plans

These plans are intended to provide details on how a distributor intends to meet its obligations to reduce the waste associated with its containers. In addition to describing container recovery programs, distributors will be asked to develop programs to reduce packaging waste associated with the distribution of containers. Plans are to be updated as circumstances change. Upon request, the plans and updates are to be made available to the public by the distributor.

The department is suggesting that the following information should be included in each plan, along with legal information about the distributor:

- Description of current recovery activities.
- Description of intended recovery activities.
- Packaging waste reduction plans and activities, which would address plans and progress on waste reduction efforts beyond the container recovery activities.
- Communications Plan.

The Waste Reduction and Prevention Plan should address the following details for each relevant subclass of container:

Class A: Describe deposit amounts, return rates, commissions or handling fees, use of unrefunded deposits, system operations, overall costs of the program, location and hours of return outlets, use and destination of recovered materials, and how any wastes are disposed of.

Class B: For each container type the recovery activities should be described in detail including: consumer incentives, return rates, commissions or premiums, financial arrangements, system operations, locations and hours of recovery system, use and destination of recovered materials, and disposal of any wastes from the process.

Class C: By September, 1992, all Class C container distributors must submit a Waste Reduction and Prevention Plan and include a proposed timetable for implementing a recovery program. Following discussions with distributors of Class C containers, some of these containers may be re-defined as Class A or B containers.

If a distributor intends to use agents to recover containers on their behalf, they must identify them as Container Processors. In some cases Container Processors will have prepared a plan which meets the department's requirements. In that case, the container processor will have provided most of the details necessary to address recovery in a Waste Reduction and Prevention Plan.

4) Submit sales information and assessments

Once a license is issued, distributors will have to submit sales information by container type and submit any assessments which may be due. It is proposed that an assessment of $1 per 1,000 containers sold would be payable on non-refillable Class A containers and all Class B and C containers. These fees would be used to cover the cost of operating the monitoring program.

The Regulation includes provisions to ensure the confidentiality of reports on commercial activities. Sales information from distributors may only be released in a manner which will not permit the identification of the volume of sales or the market share of any manufacturer or distributor.

The department is proposing that this information would be reported monthly. This would permit better, quicker tracking of the success of industry's recovery programs in the first year. The department hopes to be able to use monthly sales reports by distributors.

New Requirements for Container Processors

In order to ensure that accurate container recovery data are obtained, the department will contact firms named in distributors' Waste Reduction and Prevention Plans and identify them as Container Processors. These companies will be required to keep records and report to the Minister of Environment on their container processing activities. The department will be requesting information on where the containers being processed originated, the amounts, uses and destinations of recovered containers and the amounts and disposal of any waste.
The department will only be requesting this information from companies that broker materials out of province or use them in-province to avoid double counting. Only companies notified by the department will have to comply with this requirement. This requirement should not have an effect on recyclers who sell their materials to brokers in Manitoba.

The Monitoring Program

The Department of Environment, or a contractor hired by the department, will take the information in the sales reports from distributors and the reports from container processors and calculate a recovery rate for each subclass of container. It is anticipated that the calculation for Class A containers will be based on container counts, while for Class B containers the calculation will be extrapolated from the weights of materials sold and recovered.

Additional assessments

Where a particular subclass of containers fails to meet a recovery target in a given year, the Department will determine the percentage shortfall in the recovery rate. That percentage will then be applied to each distributors' sales of the container. Each distributor of that subclass of container will have to pay the additional assessment of 1¢ for each container under the targeted number of recovered containers in proportion to their sales. The Regulation includes an example of how the formula works.

Questions and Answers

How will the fees raised by this Regulation be used?

The Regulation provides for three different fees which will be used for different purposes. All fees are payable to the Minister of Finance, and the Government will ensure that all revenue yielded through such fees is fully invested in the beverage container recovery program.

- An annual license fee of $100 will be charged to each distributor and paid into General Revenues. The license will cover all container types the distributor handles. These funds will partially offset the Government's costs of administering the Regulation.
- An assessment of $1 per 1,000 containers sold, payable as part of the licensing requirements, will be used to award a tender for an independent contractor who will process the information generated by the Regulation, determine the recovery rate for each subclass of container, and prepare a report for the Minister.
- In the event of failure for a particular subclass of container to reach its target, an additional assessment will be applied against each distributor who sold that subclass of container. The additional assessment is 1¢ for each container short of the target recovery rate and the amount charged to each distributor of that subclass of container is in proportion to its sales of that subclass.

How does the Regulation affect glass liquor bottles?

The Liquor Control Commission will be responsible for ensuring their containers are recovered at the same rate as any other container distributor. They are exempt from having to submit descriptions of the containers they distribute because liquor containers are already regulated under the Liquor Control Act, unlike the other containers affected by this Regulation. The Liquor Control Commission maintains a data base with the characteristics of the liquor containers they distribute and will provide that information to the Department of Environment.

Why does the Regulation's title refer to packaging?

The government will be requesting information on packaging related to the sale of beverage containers in the Waste Reduction and Prevention plans in order to encourage efforts to reduce these wastes. There are no plans to set targets or other requirements for packaging at this time.
All companies, not just the beverage industry, are encouraged to take voluntary steps under the National Packaging Protocol to reduce packaging waste. The Protocol has established an interim national goal of reducing packaging waste to no more than 80% of the 1988 level. The draft Regulation specifically targets beverage containers with the goal of achieving recovery rates equivalent to other western provinces.

Is the achievement of targets the responsibility of each individual firm or all of industry?

The achievement of targets for Class B containers has to be determined on an overall basis for each sub-class of material and not on an individual firm's efforts. The reason for this is that part of the cost savings of the "buy-back" approach used by Manitoba Soft Drink Recycling results from operating on a "bulk" buying basis. This avoids the costs associated with identifying the brand owner of each container entering the system. This bulk handling basis makes it very difficult to evaluate the differences between distributors using this approach.

Manitoba's Draft Beverage Container and Packaging Regulation
Guide for Retailers

New Requirements for Retailers

Retailers of Class B beverage containers must make provision for a repository for collecting the glass, aluminum and P.E.T. containers they sell. The draft Regulation proposes that retail repositories be conveniently located and of sufficient capacity to hold all Class B containers sold in seven days. The intent is to prevent repositories from overflowing when too many containers are returned. With more frequent servicing, smaller repositories might be sufficient to satisfy the Department's requirements.

As an alternative to establishing a repository, a retailer may make arrangements with a nearby depot for the return of these containers. The retailer with such an arrangement must then conspicuously post a sign informing customers of the location, materials handled and operating hours of the depot. A letter from the depot operator to the retailer outlining their arrangement will be sufficient proof that such an arrangement exists.

I run a store. Do I have to register and file plans for the containers I sell?

Check with the company which supplies you with beverages to see if they are licensed. If you deal with a licensed distributor you will not require a license. If the distributor is not licensed and they are unwilling or unable to apply for a license, then you will have to obtain a license for those containers if you wish to continue to sell them. Manitoba Environment's Waste Reduction and Prevention Branch will provide assistance in identifying licensed distributors.

As indicated above, in the section on new requirements for retailers, you will be required to make provisions for recovering the containers you sell or provide information on the closest depot. The recovery of containers will be of value to your distributor. They should be able to provide information on what to do with the collected containers.

I bring containers into Manitoba for sale here. Do I have to apply for a license?

Most of the major brands of beverages will obtain licenses under the Regulation, however, if you are the direct importer or you avoid the regular distribution channels, then you will have to obtain a license. Check with your supplier to see if they hold a valid license under the Regulation. If they do have a license, make a note of the license number and keep it in your files. If they do not hold a license, you will have to register as a distributor.

Manitoba's Draft Beverage Container and Packaging Regulation
Guide for Container Processors

New Requirements for Container Processors

In order to ensure accurate container recovery data is obtained, companies in the business of processing empty beverage containers may be required to keep records and report to the Minister of Environment on their activities. The Department will contact firms identified in distributors' Waste Reduction and Prevention Plans as Container Processors and provide them with details on what will be required. It is anticipated that Container Processors will be required to keep information and report on where the containers originate, the amounts, uses and destinations of recovered containers and the disposition of any waste associated with their container processing activities.

The department will only be requesting this information from companies that broker materials out of province or use them in-province to avoid double counting. Only companies notified by the department will have to comply with this requirement. This requirement shouldn't effect recyclers who sell their materials to Manitoba brokers.

How does this help recyclers?

The Regulation will ensure that Manitobans have better access to facilities to recycle their beverage containers. It will also end the situation where only certain brands of containers are accepted for recycling. Recycling entrepreneurs and community based programs should find strong demand for the beverage containers they collect.

Does the Regulation do anything to improve recycling markets?

The Regulation will ensure strong demand for Class B beverage container materials in Manitoba so that the recovery targets can be met. Not all of these materials have strong North American markets and distributors will find that the costs of recycling some types of materials is more expensive than other types of materials. Distributors may find that changing the materials they use for containers towards reuse or for increased recycling will reduce the costs of complying with the Regulation. The Manitoba Government is interested in seeing increased use of these materials in Manitoba's economy.

How can I comment?

For further information contact :

Rod McCormick,
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Draft Beverage Container and Packaging Regulation under The Waste Reduction and Prevention Act

Consultation Draft

Draft Beverage Container and Packaging Regulation

under

THE WASTE REDUCTION AND PREVENTION ACT (C.C.S.M. c. W 40)

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This draft regulation has been prepared for discussion purposes. Please send your comments to:

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For more information on this regulation or the consultation process, please phone (204) 945-7344, or toll free in Manitoba 1 (800) 282-8069, extension 7344.

DEFINITIONS

1 (1) DEFINITIONS In this regulation,

"Act" means The Waste Reduction and Prevention Act;

"beverage" means a liquid that is a ready-to-serve drink, other than a dairy product or infant formula;

"Class A container" means a container in respect of which a deposit is payable at the time of purchase for consumption;

"Class B container" means a container, other than a Class A or C container, that is composed primarily of

(a) glass and is non-refillable;

(b) polyethylene terephthalate; or

(c) aluminum;

"Class C container" means a container other than a Class A or Class B container;

"container" means a receptacle that

(a) is sold for consumption in Manitoba,

(b) contains or has contained a beverage, and

(c) is sealed at the time of manufacture;

"container processing" means the business of

(a) processing empty containers that have been recovered, or

(b) shipping empty containers that have been recovered out of Manitoba for processing,

"depot" means a place established or operated for the collection of empty containers for the purpose of re-using or recycling them or for the recovery of materials from them;

"distributor" means a person who carries on the business of bringing beverages in containers into Manitoba for purpose of sale for consumption in Manitoba;

"manufacturer" means a person who carries on the business of placing beverages in containers for the purpose of sale for consumption in Manitoba;

"non-refillable" when used in relation to a container, means not capable of re-use as a container without being remanufactured;

"packaging" means a material or thing that is

(a) used to protect, contain or transport beverages in containers; or

(b) physically attached to a container for the purpose of facilitating the marketing, or communicating information about, beverages in containers;

"recovery" when used in relation to a container, means collection of the container for a purpose other than disposal as waste;

"refillable" when used in relation to a container, means capable of re-use as a container without being remanufactured;

1(2) Type of Container For the purposes of this regulation, a number of containers constitute a type of container if those containers:

(a) are composed of the same material;

(b) are the same size;

(c) have the same weight; and

(d) are the same shape.

1(3) Different Colours In clause 1(2)(a), a container that is composed primarily of glass or polyethylene teraphthalate shall be deemed to be made of a different material if the glass or polyethylene teraphthalate is of a different colour.

DESIGNATIONS

2 Designations of products or materials Containers and packaging are designated as products or materials for the purposes of clause 22(1)(a) of the Act.

TARGETS AND ASSESSMENTS

3(1) Targets The minimum target to be achieved by the aggregate of all manufacturers and distributors for the recovery of each of the subclasses of containers set out in Column 2 of Schedule 1 of the classes set out in Column 1 of Schedule 1 for the years specified in the headings of Columns 3, 4 and 5 are the targets set out opposite that subclass of container in each of those columns.

3(2) A minimum target referred to in subsection (1) is the percentage of the total number of containers of a subclass set out in Column 2 of Schedule 1 that are sold by the aggregate of all manufacturers and distributors for consumption in Manitoba that ought to be recovered.

4 Assessments

An assessment in respect of each of the subclasses of containers set out in Column 2 of Schedule 2 of the classes set out opposite in Column 1 of Schedule 2 sold by that manufacturer or distributor for consumption in Manitoba in a month is payable to the Minister of Finance by a manufacturer or distributor within seven days of the end of that month in the amount that is obtained when the following formula is applied:

Assessment Formula

$$P = A \times N$$

where:

P is the amount of an assessment that is payable for a container of a subclass set out in Column 2 of Schedule 2;

A is the assessment set out in Column 3 of Schedule 2 opposite that subclass of container; and

N is the number of containers that are of that subclass and are sold for consumption in Manitoba by the manufacturer or distributor.

5 Additional assessments

If the minister

(a) is of the opinion that the minimum target described in section 3 in a year for the recovery of a subclass of containers by the aggregate of all manufacturers and distributors has not been met, and

(b) gives notice in writing to a manufacturer or distributor,

the manufacturer or distributor shall in respect of that subclass of container set out in Column 2 of Schedule 2 of the classes set out opposite in Column 1 of Schedule 2 pay to the Minister of Finance not later than two weeks after the giving of the notice as an additional assessment the amount obtained when the following formula is applied:

Additional Assessments Formula

$$AA = \left(\frac{T}{100} - \frac{R}{S} \right) \times 10 \times A \times N$$

where:

AA is the additional assessment payable in respect of a subclass of container set out in Column 2 of Schedule 2;

T is the minimum target expressed as a percentage in respect of that subclass of container for a year set out in the heading of Column 3, 4 or 5 of Schedule 1 as that target is set out opposite that subclass in that Column;

R is the total number of containers of that subclass set out in Column 2 of Schedule 1 that

(a) are sold by the aggregate of all manufacturers and distributors for consumption in Manitoba, and

(b) are recovered; and

S is the total number of containers of that subclass set out in Column 2 of Schedule 1 that are sold by the aggregate of all manufacturers and distributors for consumption in Manitoba;

A is the assessment in respect of that subclass of container set out in Column 3 of Schedule 2; and

N is the number of containers of that subclass sold by that manufacturer or distributor.

EXAMPLE CALCULATION OF ADDITIONAL ASSESSMENT

An Example of how the Additional Assessment Formula would work

Assume that in 1992 the only manufacturer in Manitoba was Company A and the only distributor was Company B. Assume that in that year Company A sells 1,000,000 beverages in containers that are of the subclass of Class B containers identified in Column 2 of Schedules 1 and 2 as non-refillable glass containers and that Company B sells 9,000,000 beverages in containers of the same subclass. All beverages sold were for consumption in Manitoba. The total number of non-refillable glass containers sold by the aggregate of all manufacturers and distributors for consumption in Manitoba is therefore 10,000,000. Assume further that 2,000,000 of those containers are recovered in 1992. Column 3 of Schedule 1 establishes a minimum target of 30% for the recovery of non-refillable glass containers. Column 3 of Schedule 2 establishes an assessment of $0.001 for each non-refillable glass container.

Applying the formula to Company A, that Company is liable to pay an additional assessment in respect of non-refillable glass containers calculated as follows:

$$AA = \left(\frac{30}{100} - \frac{2,000,000}{10,000,000} \right) \text{ X } 10 \text{ X } \$0.001 \text{ X } 1,000,000$$

AA = $1,000

Applying the formula to Company B, that Company is liable to pay an additional assessment in respect of non-refillable glass containers calculated as follows:

$$AA = \left(\frac{30}{100} - \frac{2,000,000}{10,000,000} \right) \text{ X } 10 \text{ X } \$0.001 \text{ X } 9,000,000$$

AA = $9,000

NOTICE OF INTENTION TO SELL CONTAINER TYPE

6(1) Notice of container — This section does not apply in respect of containers sold or offered for sale or permitted to be sold or offered for sale by Liquor Control Commission other than containers for beer.

6(2) No manufacturer or distributor shall sell or offer for sale or permit to be sold or offered for sale any beverage in a container for consumption in Manitoba unless that manufacturer or distributor has given written notice to the minister indicating that intention and specifying in the form required by the minister the type of container for that beverage and other related information.

LICENCES OF MANUFACTURERS AND DISTRIBUTORS

7 Prohibition — No manufacturer or distributor shall sell or offer for sale or permit to be sold or offered for sale any beverage in a container for consumption in Manitoba without a licence issued by the minister under this regulation.

8 Application — An application for a licence or a renewal of a licence must

(a) be made in a form required by the minister;

(b) be accompanied by a fee of $ 100., and

(c) include a waste reduction and prevention plan in duplicate in the form and containing the information required by the minister.

9(1) Grounds for refusal of licence — An applicant is entitled to a licence or to renewal of a licence to sell beverages in containers as a manufacturer or distributor and to be issued a licence certificate by the minister except where in the opinion of the minister

(a) the applicant has knowingly misrepresented or failed to disclose information in the application;

(b) the waste reduction and prevention plan submitted with the application does not set out the information in the form required in clause 8(c); or

(c) the applicant is in contravention of this regulation.

9(2) A licence is subject to the following:

(a) the condition that, within 30 days of the date on which a licensee becomes aware of any material change in the information set out or circumstances reflected in the waste reduction and prevention plan, the licensee will submit an amendment to the waste reduction and prevention plan;

(b) a condition that within seven days of the end of each month, the licensee will

(i) make a report containing the information required by the minister with respect to that month, and

(ii) pay to the Minister of Finance the assessments described in section 4 that are payable in respect of subclasses of containers sold by the licensee;

(c) a condition that the licensee pay the additional assessments described in section 5 that are payable in respect of subclasses of containers sold by the licensee.

9(3) A person who breaches a condition of a licence contravenes this regulation.

9(4) Subject to section 16, a licence expires on March 31 of a year, unless it is sooner suspended or cancelled.

9(5) A licence is not transferable.

10(1) Refusal, suspension and cancellation of licences Subject to section 11, the minister may refuse to issue a licence to an applicant where the minister is of the opinion that the applicant is disentitled to a licence under subsection 9(1).

10(2) Subject to section 11, the minister may refuse to renew a licence or may suspend or cancel a licence

(a) for any reason that would disentitle the licensee to a licence under subsection 9(1) if the licensee were an applicant; or

(b) if the licensee is in breach of a condition of the licence.

11(1) Notice of proposal to refuse, suspend or cancel Where the minister refuses to issue or renew a licence or proposes to suspend or cancel a licence, the minister shall serve a notice of his or her refusal or proposal and a statement of the reasons for it on the applicant or licensee.

11(2) A notice under subsection (1) shall inform the applicant or licensee that he or she may in writing, within 10 days after the notice under subsection (1) is served, make representations with respect to the Minister's refusal or proposal.

11(3) The minister shall consider any representations made by the applicant or licensee as provided in subsection (2) before

(a) carrying out his or her refusal or proposal, or
(b) issuing the licence.

11(4) Despite subsection (1), the minister may cancel a licence on receipt of a request in writing from the licensee and the surrender of the licence certificate.

11(5) Where, before the expiration of a licence, a licensee has applied for renewal of the licence and paid a renewal of $100., the licence shall be deemed to continue,

(a) until the renewal is issued, or
(b) where the licensee is served with a notice under subsection (1), until the minister carries out his or her proposal or issues the renewal.

PLANS AND REPORTS

12 Copies of plans to be provided

A distributor or manufacturer shall furnish a copy of any waste reduction and prevention plan described in clause 8(c) and any amendment to that plan described in clause 9(2)(a), to any person within two days of that person's requesting it.

13(1) Information to be confidential

In this section, "report" means a report referred to in subclause 9(2),(b)(i).

13(2)

Except as provided in subsection (3), (4) and (5), a report made to the minister or to an employee or agent of the minister is confidential and no person who obtains such a report shall knowingly disclose it or knowingly allow it to be disclosed to any person not legally entitled to it.

13(3)

Despite any other Act or law, but subject to subclause 13(4)(b), no person who obtains a report under this regulation shall be required in any legal proceedings to give evidence relating to, or to produce documents containing, such information or documentation.

13(4)

A report obtained under this regulation may be disclosed

(a) with the consent of the person who made it; and

(b) for the purposes of the administration or enforcement of this regulation or legal proceedings related to that enforcement.

13(5)

The minister may disclose information made in a report if the disclosure would not reasonably be expected to identify the volume of sales or the market share of any manufacturer or distributor.

REPORTS ON CONTAINER PROCESSING

14(1) Obligation to report

The minister may serve a notice in writing on a person requiring that person to furnish to the minister a report and keep such records respecting that person's container processing activities in the form and containing the information required by the minister at such time or times as are specified in the notice.

14(2)

The notice described in subsection (1) shall not require the person served with it to furnish a report earlier than 30 days after the day of service.

14(3)

A person served with the notice described in subsection (1) shall comply with it.

RETAILERS TO PROVIDE REPOSITORY

15(1) Obligation of retailers

Subject to subsections (2), a retailer who sells beverages in Class B containers shall

(a) provide a separate repository for each subclass of Class B containers that

(i) is located on the retailer's premises in a place that is convenient to the public, and

(ii) is of sufficient capacity to hold all the Class B containers of that subclass that are of the kind that the retailer sells if all the containers of that subclass sold by the retailer in a seven day period were returned; and

(b) permit any person to place containers of that subclass that are of the kind that the retailer sells in the repository.

15(2) A retailer is exempt from subsection (1) in respect of a subclass of Class B containers if the retailer

(a) has made arrangements for the return of that subclass of containers that are of a kind that the retailer sells to a depot that in the opinion of the minister is within a reasonable distance of the retailer's premises, and is open at reasonable times, and

(b) has conspicuously posted a sign on the premises giving the location and hours of operation of the depot and indicating what containers may be returned to the depot.

SERVICE OF NOTICES

16(1) Manner of service — A notice that is required to be served by the minister under this regulation must be served

(a) personally by giving a copy to the person, if he or she is an individual, or to a director or officer, if the person is a corporation; or

(b) by sending a copy by registered mail addressed to the person at that person's place of business last known to the minister.

16(2) A copy of a notice served by registered mail in accordance with this clause (1)(b) is deemed to have been received five days after it is mailed.

TRANSITION

17 Transition — Despite anything in this regulation, a licence issued in 1992 expires on March 31, 1993, unless it is sooner suspended or cancelled.

COMING INTO FORCE

18(1) Coming into force — Subject to subsection (2), this regulation comes into force on June 1, 1992.

18(2) Clause 8(c) and 9(2)(a) come into force on Sept. 1, 1992.

SCHEDULE 1

MINIMUM TARGETS FOR RECOVERY OF CONTAINERS

Column 1	Column 2	Column 3	Column 4	Column 5
Class of Container	Subclass of Container	June 1 1992 to May 31 1993	January 1 1993 to December 31 1993	January 1 1994 to December 31 1994
Class A	Refillable Non-refillable	95% 60%	95% 65%	95% 70%
Class B	Non-refillable Glass Polyethylene Teraphthalate Aluminum	30% 45% 60%	45% 55% 65%	60% 65% 70%
Class C	All	0%	0%	0%

SCHEDULE 2

ASSESSMENTS

Column 1	Column 2	Column 3
Class of Container	Subclass of Container	Assessment per container
Class A	Refillable	$0.00
	Non-refillable	$0.001
Class B	Non-refillable Glass	$0.001
	Polyethylene Teraphthalate	$0.001
	Aluminum	$0.001
Class C	All	$0.001

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